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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,525	07/11/2003	Shawn L. Archer	20799.NP	5057
20551	7590	03/08/2006	EXAMINER	
THORPE NORTH & WESTERN, LLP. 8180 SOUTH 700 EAST, SUITE 200 SANDY, UT 84070			WILLSE, DAVID H	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

a

Office Action Summary	Application No. 10/618,525	Applicant(s) ARCHER ET AL.	
	Examiner Dave Willse	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 16 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 4, 6-8, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The disclosure is objected to because of the following informalities: On page 5, lines 14 and 17, "neural" should apparently be --neutral--.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al., US 2,812,961, which discloses a sliding lock plate **36** having an opening **49** for receiving a leaf spring **48** (column 2, lines 60-61) and slidably engaged with a base plate **14** and/or **16**. Gear sector **17** defines a semi-cylindrical rotator with slots into which tooth **37** can engage (column 2, lines 37-38). In regard to the "wrist device" of the preamble of instant claim 1 and others, reference is made to column 4, line 15. As for claim 2, attention is directed to the compression spring **51** (Figure 2; column 2, lines 62-67); the base plate corresponds to element **14**, and the cover plate equates with strap **16**, which includes openings **26** and **27**. Regarding claim 3, the base plate is viewed as comprising elements **14** and **16** *collectively*, since the two members are rigidly affixed to one another via screws or the like and thus serve as a unified component in the hinge mechanism of Brown et al.; the supporting arms are then seen as the semi-circular or disc-like portions extending from the guard **32** of the base plate. Regarding claim 10, "an arm" could refer to something other than the *prosthetic* arm (which is not a positively recited element), such as the "arm" **46** of Brown et al.

Claims 4, 6-8, 11, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13 and 16 are allowed.


The Applicant's remarks have been considered. The Applicant asserts that "Brown does not teach or suggest the use of a semi-cylinder that can rotate, instead Brown teaches a thin disk that rotates" (page 7, lines 17-18, of the Applicant's reply of December 23, 2005). The Applicant's specification does not provide a definition of the term "semi-cylindrical" in a manner prescribed in MPEP § 2111.01. The examiner is unable to find a dictionary definition of said term, but the prefix "semi-" is broad enough to encompass the meanings "[p]artial: partially" and "[l]ike or having some of the characteristics of" (*Webster's II New Riverside University Dictionary*: 1984). In the Brown et al. invention, the rotator of the gear sector 17 is only partially cylindrical because of the region transitioning into the *thinner* strap extension 18. A "plate" can be "[a] flat piece of metal forming a machine part" (*ibidem*), so it is not seen how the locking slide 36 of Brown et al. falls outside the scope of the "sliding lock plate" in present claim 1. Moreover, it is the Applicant's burden to precisely define the invention, and not the examiner's (*In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997)). Other comments by the Applicant (e.g., page 7, lines 2, 8-11, and 19-21, of said reply) are not commensurate with what is actually claimed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse whose telephone number is 571-272-4762. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Dave Willse
Primary Examiner
Art Unit 3738